

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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 UNITED STATES of AMERICA                     ) CRIMINAL FILE  
    ) NO. 18-CR-90 (RWP/CFB)  
    )  
    ) Courtroom 6B  
    ) Thursday, February 13, 2020  
 ROBERT PHILIP IVERS                     ) St. Paul, Minnesota  
    ) 11:22 A.M.  
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**AUDIO DIGITAL TRANSCRIPTION OF:**

**PRELIMINARY REVOCATION and DETENTION HEARING**

BEFORE THE HONORABLE HILDY BOWBEER  
UNITED STATES MAGISTRATE JUDGE

**A P P E A R A N C E S:**

**For the Government:**     **OFFICE OF THE U.S. ATTORNEY**  
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**I N D E X****W I T N E S S E S:****PAGE****ODELL WILSON, III**

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**ROBERT PHILIP IVERS**

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**E X H I B I T S**

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Government 1	11
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1 (11:22 a.m.)

2 P R O C E E D I N G S

3 I N O P E N C O U R T

4 (Defendant present)

5 THE COURT: ... preliminary revocation hearing and  
6 detention hearing in the matter of United States vs. Robert  
7 Ivers. This is matter number 18-CR-90.

8 Let's get appearances, first on behalf of the  
9 Government.

10 MS. ALLYN: Good morning, Your Honor. Julie Allyn  
11 and Allison Ethen for the United States.

12 THE COURT: Okay. Good morning.

13 And on behalf of Mr. Ivers.

14 MS. ATWAL: Good morning, Your Honor. Manny Atwal  
15 on behalf of Mr. Ivers, who's sitting next to me.

16 THE COURT: Okay. Good morning to both of you.

17 As I indicated, we are here both for a preliminary  
18 revocation hearing and a detention hearing. Is the  
19 Government still seeking detention of Mr. Ivers pending a  
20 final revocation hearing?

21 MS. ALLYN: Yes, Your Honor.

22 THE COURT: Okay. And is Mr. Ivers contesting  
23 both probable cause and detention, Ms. Atwal?

24 MS. ATWAL: Yes, Your Honor, we are.

25 THE COURT: All right. Ms. Allyn, do you intend

1 to call any witnesses or to introduce any evidence?

2 MS. ALLYN: Yes, Your Honor. We would be calling  
3 one witness from the Probation Office and introducing three  
4 exhibits.

5 THE COURT: All right. Please go ahead.

6 MS. ALLYN: Your Honor, when Defendant came in, I  
7 understand that your clerk called a tech person for the  
8 courthouse to help -- to see if we could get the audio to  
9 work.

10 THE COURT: All right. Why don't --

11 MS. ALLYN: Could we get a break for a moment?

12 THE COURT: That would be just fine. Let's go off  
13 the record for a moment and we'll see if our --

14 (Recording paused from 11:24 a.m. to 11:26 a.m.)

15 IN OPEN COURT

16 THE COURT: Okay. We're back on the record in the  
17 matter of United States vs. Robert Ivers, matter number  
18 18-CR-90.

19 Ms. Allyn, you can go ahead, and I believe you  
20 were about to call a witness.

21 MS. ALLYN: Yes, thank you, Your Honor. At this  
22 time the Government would call Odell Wilson to the stand.

23 THE COURT: Okay. Officer Wilson, if you'd please  
24 come forward.

25 Raise your right hand.

**ODELL WILSON, III, GOVERNMENT'S WITNESS, SWORN**

THE WITNESS: Yes.

THE COURT: All right. Please be seated in the witness box.

And please state your full name and spell your last name for the record.

THE WITNESS: Odell Wilson, III. The last name is W-I-L-S-O-N.

THE COURT: And if you could make sure that you're speaking into the microphone. You don't have to swallow the microphone, but make sure you're speaking right into it so we get a good clear record.

Go ahead, Ms. Allyn.

MS. ALLYN: Thank you, Your Honor.

**DIRECT EXAMINATION**

BY MS. ALLYN:

Q. Good morning.

A. Good morning.

Q. What is your job?

A. I'm a supervising U.S. federal probation officer.

Q. What are some of your duties and responsibilities in that role?

A. I supervise officers who carry a caseload of individuals that they're supervising in the community. I review cases

1 with them when there are issues or concerns with them. I  
2 fill in for them if they're not able to come to court, such  
3 as today, and I do handle some cases right now just based on  
4 the fact that we have an officer that's basically retiring  
5 at the end of the month. I'm holding onto those cases until  
6 we distribute them to other officers.

7 Q. How long have you been a supervisor?

8 A. It'll be 23 years next month.

9 Q. Always at the -- in the District of Minnesota?

10 A. Yes, always in the District of Minnesota, yes.

11 Q. And how are you associated with this case that brings  
12 you here today to testify?

13 A. I supervise James Weinberger, who is the probation  
14 officer of Mr. Ivers.

15 Q. And is Mr. Weinberger unavailable to testify today?

16 A. Yes. He's in training for the week, so he's not here  
17 today.

18 Q. Out of the state?

19 A. Yes, out of state.

20 Q. How have you come to learn about this case in order to  
21 be able to testify here today?

22 A. Well, from the beginning I was involved with the case  
23 when Mr. Ivers was released, would have a lot of  
24 conversation about his transport to North Dakota where he  
25 was -- where he was going. We had the GPS at the time of

1 his release so that we could monitor his whereabouts.

2 Q. And since the transportation of the defendant to North  
3 Dakota, have you continued to be in contact with his  
4 probation officer about this case?

5 A. Yes.

6 Q. Is the -- sort of jump to it, but I suppose Mr. Ivers is  
7 currently on supervised release?

8 A. Yes.

9 Q. What was the underlying crime of conviction giving rise  
10 to his supervised release term?

11 A. He had two counts. One was threatening a federal judge  
12 and one was -- it's a long one -- interstate threats --

13 Q. Basically, threats against a judge?

14 A. Yes.

15 Q. What was his term of supervised release?

16 A. Three years of supervised release.

17 Q. And what was his sentence?

18 A. Eighteen months.

19 Q. Was Mr. Ivers placed on supervised release in August of  
20 2019?

21 A. Yes.

22 Q. At that time, were the conditions of supervised release  
23 explained to him?

24 A. Yes.

25 Q. Are you alleging that Defendant has violated some

1 conditions of -- some of his release conditions?

2 A. Yes.

3 Q. How many conditions?

4 A. I'd say three.

5 Q. And what conditions are you alleging Mr. Ivers violated?

6 A. Well, he left the jurisdiction of where he was residing  
7 without permission of the judge or his probation officer.  
8 He violated the conditions of his electronic monitoring  
9 conditions, which was basically he needed permission to  
10 leave the district while on that device. And a directive  
11 from the probation officer and myself, I guess, I would say,  
12 that he was not to enter into the District of Minnesota  
13 without the permission of Judge Pratt.

14 Q. So let's start with this issue of leaving a certain  
15 district, right? Where was Mr. Ivers supposed to be living?  
16 What was his district of jurisdiction for where he had  
17 permission to reside?

18 A. He was living in Fargo, North Dakota.

19 Q. And so is Fargo, North Dakota where Mr. Ivers was  
20 authorized by Probation to reside?

21 A. Yes.

22 Q. And had Probation done like a house study, home study,  
23 to ensure that that was the right location for Mr. Ivers to  
24 live?

25 A. Yes. Originally it was North Dakota, and then we went



1 up January 30th of this year.

2 Q. So North Dakota had done that home study before  
3 Mr. Ivers moved there?

4 A. When Mr. Ivers went there he was not there, but by the  
5 probation officer from North Dakota.

6 Q. And where was it that Mr. Ivers would be living in North  
7 Dakota?

8 A. He was living with his sister.

9 Q. So who was supervising Mr. Ivers while while he was  
10 living in North Dakota in August of 2019?

11 A. Chris Amundson (ph), I believe his name is, the  
12 probation --

13 Q. Maybe Ambuehl?

14 A. Yeah. I guess -- I have a hard time pronouncing it, but  
15 yes, Aamodt or Amdahl or something like that. Yes, but  
16 there was a probation officer there who was -- who was  
17 supervising him as courtesy supervision for our office,  
18 because obviously it's in North Dakota, and we were  
19 monitoring the electronic monitoring part of it.

20 Q. So a probation officer named Chris in North Dakota was  
21 doing courtesy supervision?

22 A. Yes.

23 Q. And when you say you were monitoring the GPS portion,  
24 what do you mean by that?

25 A. Well, I'm sorry. Let me backtrack.

1           They were monitoring the GPS portion because he  
2           was living in North Dakota and they had courtesy supervision  
3           at that time. It changed to us on January 30th.

4           Q. Okay. Great. Before we get to January 30th, in the  
5           beginning, in August of 2019, did this North Dakota  
6           probation officer, Chris Ambuehl, meet with Mr. Ivers in  
7           person?

8           A. Yes.

9           Q. And did he meet with Mr. Ivers and go over Mr. Ivers'  
10          conditions of release?

11          A. Yes.

12          Q. Did Mr. Ivers sign anything reflecting that he had had  
13          this meeting where the conditions of his release were  
14          explained to him?

15          A. Yes.

16          Q. And what was that form, or what was signed by Mr. Ivers?

17          A. It was his conditions of supervised release. It gives  
18          the standard conditions of supervision as well as any  
19          special conditions. He signed them as well as the probation  
20          officer.

21          Q. It's kind of a standard form, is that fair?

22          A. Yes.

23          Q. All right.

24                 MS. ALLYN: Your Honor, may I approach the  
25          witness?

1 THE COURT: Yes.

2 Q. Okay. Probation Officer Wilson, do you recognize what  
3 I've handed to you as Government's Exhibit 1?

4 A. Yes.

5 MS. ALLYN: Your Honor, the Government has given  
6 before this hearing defense counsel the exhibits.

7 Q. How do you recognize this Exhibit 1?

8 A. This is a document that was signed by Mr. Ivers.

9 Q. What date?

10 A. August 2nd, 2019.

11 MS. ALLYN: Your Honor, at this time the  
12 Government would move into evidence Government Exhibit 1.

13 THE COURT: Any objection, Ms. Atwal?

14 MS. ATWAL: No, Your Honor.

15 THE COURT: Government's Exhibit 1 will be  
16 received.

17 BY MS. ALLYN:

18 Q. All right. So this is the supervised release conditions  
19 as explained to Mr. Ivers in North Dakota in August, is that  
20 right?

21 A. Yes.

22 Q. If you could turn to page 4 of 7 of this document, and  
23 the heading should say "Standard Conditions of Supervision."

24 Do you see that page?

25 A. Yes.

1 Q. Can you look at number 3 of those standard conditions.

2 A. Okay.

3 Q. Can you read number 3 to the Court.

4 A. "You will not knowingly" -- "You must not knowingly  
5 leave the federal judicial district where you are authorized  
6 to reside without first getting permission from the court or  
7 the probation officer."

8 Q. And can you read number 13 of those standard conditions?

9 A. "You must follow the instructions of the probation  
10 officer related to the conditions of supervision."

11 Q. And for number 3, in this specific instance when it says  
12 the federal judicial district where you are authorized to  
13 reside, for Mr. Ivers, was that North Dakota?

14 A. Yes.

15 Q. Fargo, North Dakota area?

16 A. Yes.

17 Q. And is it for now conditions sort of 3 and 13 that you  
18 just read that are part of the allegations for how Mr. Ivers  
19 violated his supervised release?

20 A. Yes.

21 Q. All right. So this was August 2019. Let's move to  
22 September 2019, okay?

23 A. Mm-hm.

24 Q. Did Mr. Ivers want to travel to Minnesota in  
25 anticipation of hoping to move to Minnesota?

1 A. Yes.

2 Q. Did Mr. Ivers ask Probation permission to travel to  
3 Minnesota?

4 A. Yes.

5 Q. Can you explain any of that conversation or how  
6 Probation responded.

7 A. Well, he asked to come to Minnesota to look for  
8 residence and take care of some personal business. It was  
9 within the first 60 days of supervision. As a rule  
10 generally, we -- within 60 days we would not allow travel  
11 pretty much anywhere outside the district because we want to  
12 make sure that people are getting settled in and following  
13 the conditions of supervision. So he was told that that  
14 would not be allowed at that particular time.

15 Q. What did Mr. Ivers do then after Probation denied his  
16 request to travel to Minnesota?

17 A. There was a petition that was filed with Judge Pratt  
18 making a request to travel to Minnesota.

19 Q. And is it true that Judge Pratt is the judge, I guess,  
20 overseeing this matter?

21 A. Yes.

22 Q. Does it sound right that this order denying Mr. Ivers'  
23 request was issued about September 25th, 2019?

24 A. Yes.

25 Q. Oh, I'm sorry. That's wrong. Was the order from Judge

1 Pratt October 10th?

2 A. October 10th, yes.

3 Q. Okay. That's my fault. Mr. Ivers filed his petition  
4 September 25th, is that right?

5 A. Yes.

6 Q. How did Mr. Ivers respond with respect to his  
7 conversations with his North Dakota probation officer after  
8 Judge Pratt denied him in October?

9 A. Well, he was upset. I listened to an audiotape that was  
10 sent to him. He was upset that he was denied and he was --  
11 stated that he was angry and left a rather what I would  
12 consider vulgar and disrespectful message for the probation  
13 officer.

14 Q. And so his vulgar message is left in October 2019, is  
15 that right?

16 A. Yes.

17 Q. And you've heard those messages?

18 A. Yes.

19 Q. In November of 2019, did Mr. Ivers again petition the  
20 Court to leave North Dakota?

21 A. Yes. He made a petition to have the condition amended  
22 that would not allow him to travel to Minnesota, yes.

23 Q. Do you remember which condition was he asking to amend?

24 A. I don't remember off the top of my head here, but it  
25 was -- essentially he's asking him to allow him to travel

1 from North Dakota to there and amend the condition that, you  
2 know, was in place that would not allow him to do it at that  
3 particular time.

4 Q. How did Judge Pratt rule on Mr. Ivers' second request to  
5 leave the District of North Dakota?

6 A. He denied it.

7 Q. And this time let's see if I have the right date. Was  
8 that denial about December 6th, 2019?

9 A. Yes.

10 Q. Okay. How did Mr. Ivers do on probation in North Dakota  
11 after that December ruling?

12 A. Well, after the December ruling there were continued  
13 messages that were left, same or similar messages, you know,  
14 like I said, level of disrespect for as far as I'm  
15 concerned. I mean, that's my opinion. I heard them and  
16 that's just not the way people generally confront themselves  
17 with their probation officer. It was a little disturbing,  
18 but that's what it was. And, you know, it continued  
19 whenever, I guess, he got angry enough to call him, because  
20 there were several of them.

21 Q. And how did North Dakota respond after getting these  
22 angry messages from Mr. Ivers?

23 A. At one point -- I believe it was around January 13th  
24 they notified us that they were going to close their  
25 interest in the case based on his desire not to live in

1 North Dakota and essentially his behavior that he's  
2 demonstrating while under supervision there.

3 Q. Did they characterize that behavior a certain way, like  
4 angry or abusive, or any characterization?

5 A. I think they assumed we knew based on the history and  
6 just said that they were closing it based on the fact  
7 that -- you know, that he's -- didn't want to be there and  
8 was unamenable to supervision there according to them.

9 Q. Now, these messages that we're talking about that  
10 Mr. Ivers left for his probation officer in January, you've  
11 heard those messages, is that right?

12 A. Yes.

13 Q. And we discussed this morning that I had an exhibit, a  
14 disc with those three January messages, is that right?

15 A. Yes.

16 MS. ALLYN: Your Honor, if I could at this time  
17 offer into evidence Exhibit 2 for the Government. Ms. Atwal  
18 does have the disc. I could try to play it first or --

19 MS. ATWAL: Well, first, Your Honor, I am going to  
20 object as to relevance as to Government's Exhibit 2, the  
21 phone messages.

22 THE COURT: I'm going to overrule the objection.

23 MS. ALLYN: Thank you, Your Honor. At this time,  
24 if I could offer into evidence Government's Exhibit 2.

25 Judge, if I can try to play just one of the calls



1 using the microphone, see if you can hear it; otherwise, if  
2 the Court feels it necessary to hear, the Government  
3 believes it's relevant towards detention, perhaps a brief  
4 recess. They're very short.

5 THE COURT: All right. Let's see how we do.  
6 Obviously it's important not only that I hear, but that  
7 Mr. Ivers and Ms. Atwal be able to hear as well and  
8 hopefully be able to get a recorded record of it also, but  
9 let's see how you do with the microphones.

10 MS. ALLYN: And I said I'll try. And again, too,  
11 if there needed to be a recess, Ms. Atwal has the disc and  
12 anyone can hear it from my computer. It's just how long  
13 you'll be able to hear it now.

14 So I'm going to play -- it's from January 10th.

15 MS. ATWAL: Your Honor, I will let the Court know  
16 that Probation did provide these recordings to me last  
17 night.

18 THE COURT: And have you listened to them?

19 MS. ATWAL: I have, Your Honor.

20 THE COURT: All right.

21 MS. ATWAL: The Government's indicated out of the  
22 calls which ones are on Exhibit 2.

23 THE COURT: All right. Thank you.

24 MS. ALLYN: Yes. Thank you, Your Honor. I will  
25 to make the record clear -- thank you, Ms. Atwal -- the

1       probation officer sent us three calls from October. Those  
2       calls actually the Government already put into evidence at a  
3       prior hearing involving Mr. Ivers. So on this disc are just  
4       the January calls from Mr. Ivers to his North Dakota  
5       probation officer.

6               THE COURT: Do you happen to know the disc -- to  
7       be that much more clear about the record, do you happen to  
8       know the dates of the January messages that you're going to  
9       be playing?

10              MS. ALLYN: Yes, Your Honor. On this disc there's  
11       two listed from January 10th and two listed from January 14,  
12       although I have to say I thought there's only -- if I can  
13       check my notes -- one of those could be another call. There  
14       are at least two from the 10th and I think only one from the  
15       14th.

16              THE COURT: All right. Go ahead.

17              MS. ALLYN: Thank you, Your Honor.

18              (Audio recording played)

19              MS. ALLYN: Your Honor, were you able to hear that  
20       at all?

21              THE COURT: Yes.

22              MS. ALLYN: Then I'll just play one from the 14th.  
23       I think it was a line (ph) one on the 14th. I'm not going  
24       to play the second one on the 10th, because I think as the  
25       Court sees, they are vulgar.

1 (Audio recording played)

2 MS. ALLYN: Were you able to hear that, Your  
3 Honor?

4 THE COURT: Yes.

5 BY MS. ALLYN:

6 Q. Probation Officer Wilson, does that sound accurate,  
7 those two of several phone calls that you heard from  
8 Mr. Ivers?

9 A. Yes.

10 Q. All right. So you said that about January 13th North  
11 Dakota was declining their courtesy supervision, is that  
12 right?

13 A. Yes.

14 Q. So who took over supervising Mr. Ivers at that time?

15 A. Jim Weinberger took over the supervision of the case.

16 Q. Was anybody going to assist Jim Weinberger in  
17 supervising Mr. Ivers?

18 A. Stephanie Thompson works out of our Fergus Falls office,  
19 which is closer to North Dakota, and she would likely assist  
20 him with just looking at the electronic monitoring  
21 equipment. We have to do monthly checks on it. So she was  
22 someone that we wanted to introduce to Mr. Ivers so that he  
23 could put a name with a face, because she may have to go and  
24 check on the equipment periodically.

25 Q. And that would still be -- Ms. Thompson and

1 Mr. Weinberger going to North Dakota, is that right?

2 A. Correct.

3 Q. So is there anything about North Dakota declining  
4 courtesy supervision that would change the authorized  
5 district where Ivers could live?

6 A. No.

7 Q. Was Ivers still only authorized to live in North Dakota  
8 regardless of the change in probation officer?

9 A. Yes. He was only authorized to live in North Dakota.

10 Q. Now, once North Dakota declined that supervision, did  
11 anyone from Minnesota meet with Mr. Ivers again to discuss  
12 his supervision with respect to it now coming to Minnesota  
13 or now being supervised by Minnesota probation officers?

14 A. On January 30th, supervision was transferred to  
15 Minnesota. Myself and Jim Weinberger went to Mr. Ivers'  
16 residence, met with him and did a home inspection because,  
17 you know, we were going to be the supervisors of his case.

18 After finishing the home inspection we met down at  
19 the police station and Stephanie Thompson met us there so we  
20 could introduce her to him.

21 Q. So first let's start with that home inspection. Where  
22 did you do the home inspection?

23 A. At his sister's residence in Fargo, North Dakota.

24 Q. And how would you describe that residence?

25 A. A very nice residence, very well-kept, clean, roomy.

1 One of the nicer places that I've seen in doing home  
2 inspections before.

3 Q. Had Mr. Ivers ever indicated to either you or  
4 Mr. Weinberger that his sister did not want him to live  
5 there?

6 A. Prior to transferring supervision back to Minnesota, he  
7 had indicated that his sister didn't want him there and they  
8 weren't getting along and he needed to move out.

9 At that time we said that he -- if he was going to  
10 move out of the residence that he would have to go to  
11 Center, which is a residential rehabilitation center,  
12 halfway house, in North Dakota. At that time he said that  
13 it would interfere with his Social Security and it would  
14 cost -- it would take a significant amount from him. And  
15 didn't hear any more about that being an issue after that  
16 particular time.

17 Q. So you did give him an alternative from living at his  
18 sister's house, is that so?

19 A. Yes.

20 Q. But it still didn't include moving to Minnesota, did it?

21 A. No.

22 Q. Did Mr. Weinberger or you reach out to his sister to see  
23 whether in fact it was a problem for Mr. Ivers to live with  
24 her?

25 A. Mr. Weinberger reached out to Mr. Ivers' sister prior to

1 us going up for the home inspection, and according to  
2 Mr. Weinberger, she told him that he did not -- he was  
3 welcome to stay there, that she had no problem with him  
4 being there and they were not having any issues. In fact,  
5 that she welcomed him there, he treated her very nicely and  
6 that he was a help to her at the residence and he could  
7 stay -- she didn't expect him to stay forever, but she  
8 did -- was fine with him being there until he found an  
9 alternative place to live.

10 Q. All right. So we're just breaking down this  
11 January 30th visit. You had a home inspection. Then you  
12 said something about going to the police department. Can  
13 you explain that?

14 A. Yes. So we met at the police department so that we  
15 could review his conditions, pretty much the same conditions  
16 that he reviewed with the North Dakota probation officer.  
17 And there was one other thing that we reviewed, which was  
18 basically Jim giving him written instructions about his  
19 behavior and language and how he would address the probation  
20 officers doing -- from that day going forth in terms of his  
21 supervision.

22 Q. And what did this extra special condition say? What was  
23 it requiring of Mr. Ivers?

24 A. It was requiring him to not use vulgar language and to  
25 be respectful when he's having conversation with Probation.

1 He put it in writing, Jim Weinberger signed it as well as  
2 Mr. Ivers.

3 Q. And as part of that, you're saying that you also went  
4 through these same conditions of supervised release again  
5 with Mr. Ivers?

6 A. Yes, all of them.

7 Q. And did Mr. Ivers again sign this list of conditions of  
8 his supervised release?

9 A. Yes, he did.

10 MS. ALLYN: Your Honor, may I approach?

11 THE COURT: Yes.

12 Q. Probation Officer Wilson, I show you Government Exhibit  
13 3. Do you recognize it?

14 A. Yes.

15 Q. And what is it?

16 A. It's a copy of his judgment and his conditions.

17 THE COURT: Make sure you're speaking into the  
18 microphone.

19 THE WITNESS: Okay.

20 A. A copy of the judgment and conditions that were signed  
21 by Mr. Ivers.

22 Q. And are there certain signatures and dates on this  
23 Government Exhibit 3?

24 A. Yes. Mr. Ivers' signature, as well as Jim Weinberger's  
25 signature on January 30th.

1 Q. 2020?

2 A. 2020, yes.

3 MS. ALLYN: Your Honor, the Government would move  
4 to enter into evidence Government's Exhibit 3.

5 MS. ATWAL: Three?

6 MS. ALLYN: Yes, 3.

7 MS. ATWAL: Yes. No objection.

8 THE COURT: Government Exhibit 3 is admitted.

9 Just for housekeeping purposes, you played messages off of  
10 Government Exhibit 2, but you didn't actually offer  
11 Government Exhibit 2 into evidence. Did you intend to or  
12 not?

13 MS. ALLYN: Yes, Your Honor, and I'm sorry. I  
14 thought when defense objected to playing the Court had  
15 overruled that objection.

16 THE COURT: I wasn't sure it was formally offered,  
17 but in any event, just to keep the record clear, yes,  
18 Government Exhibit 2 is admitted and it was previously  
19 played.

20 MS. ALLYN: Yes, Your Honor. I apologize. I  
21 think with not (inaudible) play it, I lost track. Thank  
22 you.

23 BY MS. ALLYN:

24 Q. So, Officer Wilson, aside from these extra signatures,  
25 if we were to look again at judgment page 4 of 7, does this



1 again contain the same provisions, number 3 and 13, that you  
2 previously read into the record?

3 A. Yes.

4 Q. So you were there when Mr. Ivers went through these  
5 standard conditions of supervision, is that true?

6 A. Yes.

7 Q. Did Mr. Ivers talk to you then about wanting to come  
8 back, leaving North Dakota and coming to Minnesota?

9 A. Yes.

10 Q. Can you explain that conversation to the Court.

11 A. Mr. Ivers explained that his attorney had filed  
12 something with Judge Pratt stating that he was coming to  
13 Minnesota on April 10th.

14 Q. And how did you respond to that?

15 A. Well, Jim Weinberger first responded, telling him that  
16 he could not come to Minnesota without the permission of  
17 Judge Pratt and that he was not giving him permission to  
18 come to Minnesota on April 10th.

19 THE COURT: April 10th?

20 THE WITNESS: I'm sorry, on February 10th. On  
21 February 10th.

22 Q. Thank you. How did Mr. Ivers respond when  
23 Mr. Weinberger told him that?

24 A. Well, Mr. Ivers believed that Mr. Weinberger could make  
25 a decision to allow him to come to Minnesota. He

1 specifically said that Mr. Weinberger was denying him to  
2 come to Minnesota and that it was -- that he expressively  
3 tells him that he could come. Mr. Weinberger explained to  
4 him that he could not give him permission to come -- that he  
5 was not giving him permission to come on February 10th and  
6 that if he wanted to come on February 10th, he should  
7 request that his attorney file a motion to allow him to come  
8 to Minnesota, and then if Judge Pratt approved of that, then  
9 we would make arrangements for him to come to Minnesota.

10 As he continued to say that Mr. Weinberger could  
11 make that decision himself, I interjected and made it clear  
12 that as Jim's supervisor, if he was to say right that moment  
13 that he would allow him to come to Minnesota, I would have  
14 to object to it and tell him that he needed to follow the  
15 instructions, which would be file the motion and get  
16 permission from Judge Pratt, as he had already denied travel  
17 to Minnesota for Mr. Ivers on two different occasions.

18 Q. How did Mr. Ivers respond when you said the only way he  
19 could travel to Minnesota is to get permission from  
20 Mr. Pratt -- or Judge Pratt? Excuse me.

21 A. Well, he said he had -- he wanted to get out of North  
22 Dakota, he didn't like it there, he didn't want to be there,  
23 he had business in Minnesota. He then said that he'd rather  
24 be in prison than living in North Dakota.

25 Q. Did you warn Mr. Ivers that he would be arrested if he

1 came to Minnesota without permission?

2 A. Mr. Ivers made it clear that day that he intended to  
3 come to Minnesota on April 10th. I specifically spoke to  
4 Mr. Ivers about what he was saying and I told him that, you  
5 know, if he was coming to Minnesota he might not even make  
6 it to Minneapolis or to the Twin Cities area, because he  
7 would likely be arrested because he's on a GPS monitoring.  
8 If he had it on, we would be able to monitor his location  
9 and he would likely be picked up and taken into custody.  
10 And he just made it clear he'd rather be in prison than to  
11 live in North Dakota. That was kind of how we ended that  
12 conversation.

13 Q. Did you also during this January 30th, 2020 meeting  
14 discuss him using GPS, any issues he was having with GPS?

15 A. There was no issues with his GPS. We went over the  
16 conditions and he signed the conditions saying that he  
17 understood what he was supposed to do in terms of GPS  
18 monitoring. We asked if he had any questions, if there  
19 was -- he was welcome to ask if there were any problems with  
20 any of the conditions and he signed them and that was it.  
21 He stated that he understood them clearly.

22 Q. After the January 30th meeting, did Probation Officer  
23 Stephanie Thompson have any contact with Mr. Ivers that  
24 first week of February 2020?

25 A. Yes. Shortly after we had our meeting on January 30th,

1       there was some issues with his electronic monitoring  
2       equipment. We weren't sure if it was just an issue with the  
3       equipment or if Ivers had not charged up the battery that  
4       was in the equipment at the time. Mr. Weinberger called him  
5       to try to troubleshoot the situation. Mr. Ivers, you know,  
6       used some explicit language and told him that he needed to  
7       call his attorney and hung up the phone on him. He was  
8       simply asking him to change the battery to see -- to make  
9       sure that it was working properly, because he was getting  
10      alerts.

11      Q. And did Stephanie Thompson try to meet with Mr. Ivers on  
12      February 3rd?

13      A. Well, what happened was because we were getting these  
14      alerts and there were issues with the electronic monitoring  
15      equipment, we asked Stephanie to go and change the equipment  
16      out just to make sure it was not just the equipment that  
17      there was an issue with.

18                You know, the concern for us at that time was that  
19      Mr. Ivers, number one, wasn't answering his phone when Jim  
20      was calling, which is part of the condition of being on  
21      electronic monitoring, that we need to be able to  
22      communicate with him when there's a problem or if we wanted  
23      to speak with him about something.

24                The issue with the electronic monitoring equipment  
25      was resolved apparently when she went and changed the

1 equipment. We did not have any further issues with the  
2 equipment showing alerts or anything like that.

3 Q. But it was this time when Officer Thompson was there,  
4 are you saying Mr. Ivers said -- was refusing to talk to Jim  
5 Weinberger?

6 A. He was refusing to talk to Jim before she went up to  
7 change the equipment. So, you know, instead of kind of  
8 going back and forth, we just said, you know, we want to  
9 make sure that the equipment is proper based because we want  
10 to make sure that he's under the supervision that he's  
11 supposed to be under. The issue at the time was simply he  
12 didn't want to talk to Jim, he didn't want to -- he hung the  
13 phone up on him, he cursed at him. You know, and that's not  
14 a violation, but the violation is that he was not allowing  
15 us to do our job in terms of troubleshooting with the  
16 electronic monitoring. We asked Stephanie to go up, change  
17 the equipment out altogether and we didn't have any issues  
18 thereafter.

19 Q. So I think you said he started swearing at him and  
20 started to say, "F you," basically?

21 A. Yeah, "F you. Call my attorney. I don't" -- you know,  
22 "I'm not going to talk to you."

23 Q. Is that a violation of the condition to at least follow  
24 the instructions of your probation officer, stay in contact  
25 with your probation officer?

1 A. Yes. The instruction is that and he had just signed  
2 a -- you know, what we had signed with him about his  
3 language and his demeanor when he's in communication with  
4 Probation. We went over that, discussed it with him, and he  
5 stated that he understood that, but went back to that a  
6 little bit again at that particular time.

7 Q. So after this exchange on about February 3rd, 2020, did  
8 Mr. Ivers leave North Dakota?

9 A. Yes.

10 Q. And when did he leave North Dakota?

11 A. February 9th I got a call from Mr. Weinberger that his  
12 GPS was showing him headed toward Minneapolis.

13 Q. And when -- did in fact Mr. Ivers come to Minnesota?

14 A. Yes.

15 Q. Did Mr. Ivers have permission from the Probation Office  
16 to leave North Dakota and come to Minnesota?

17 A. No.

18 Q. Did Mr. Ivers have permission from Judge Pratt to leave  
19 North Dakota and come to Minnesota?

20 A. No.

21 Q. So what did you all at the Probation Office do then?

22 A. Filed a petition for a warrant, which was signed off by  
23 Judge Pratt, and he was picked up in Hopkins, Minnesota by  
24 the Hopkins police.

25 Q. Do you know any of the circumstances of his arrest?

1 A. What I was made aware of was that when they picked him  
2 up, he was in his car.

3 Q. In Hopkins, Minnesota?

4 A. Yes.

5 Q. Was Defendant in Hopkins, Minnesota in his car a  
6 violation of his conditions of release?

7 A. Yes.

8 Q. How so?

9 A. He did not have permission to leave the jurisdiction of  
10 the district that he was living in. He did not get  
11 permission from Jim Weinberger, his probation officer, nor  
12 did he get permission from Judge Pratt, who had already  
13 given two previous orders, and he also did not follow the  
14 instructions of Mr. Weinberger, which we gave him on  
15 January 30th. Mr. Weinberger and myself gave him the same  
16 instructions, that he should not come to the District of  
17 Minnesota without those -- without getting prior permission,  
18 or he will be arrested.

19 Q. How has Defendant's behavior been on supervision for  
20 these last six months, or for only the six months?

21 A. As far as I'm concerned, very uncommon. It's very  
22 uncommon that people who are on supervision talk to their  
23 probation officers off record. Generally people are  
24 respectful, understand that they have a job to do and follow  
25 the instructions of the probation officer. I made it clear

1 he hasn't committed a new crime as far as I'm concerned, but  
2 he's violated the conditions of supervised release and has  
3 made it clear to us in this situation that that's what he  
4 intended to do and that's what he did.

5 Q. Do you have a recommendation as to whether Mr. Ivers  
6 should be detained or not?

7 A. Mr. Ivers did not follow the instructions of the  
8 probation officer, including myself, or Judge Pratt in  
9 regards to him remaining where he was supposed to be in  
10 terms of his location monitoring. I have no reason to  
11 believe that Mr. Pratt would not make -- I'm sorry --  
12 Mr. Ivers would not make the same decision. If he decides  
13 he wants to leave, I can't see that we have any way of  
14 enforcing or him to remain in a location other than in  
15 custody or where he's supposed to be until this situation is  
16 resolved.

17 Q. So is that a recommendation that Mr. Ivers should be  
18 detained at least until the final revocation hearing?

19 A. That would be my recommendation.

20 MS. ALLYN: If I could have one moment, Your  
21 Honor.

22 THE COURT: Yes.

23 (Pause)

24 MS. ALLYN: Your Honor, thank you. I have no  
25 further questions.



1 THE COURT: All right. Ms. Atwal,  
2 cross-examination.

3 MS. ATWAL: Thank you, Your Honor. And with the  
4 Court's permission, I would like to address detention  
5 factors during this witness's cross-examination as well.

6 THE COURT: Yes.

7 MS. ATWAL: Thank you.

8 THE COURT: And I assume, Ms. Allyn, that your  
9 examination was intended both to cover probable cause and  
10 detention, right?

11 MS. ALLYN: Yes, Your Honor.

12 THE COURT: Okay. Go ahead, Ms. Atwal.

13 MS. ATWAL: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 BY MS. ATWAL:

16 Q. Good morning, Officer Wilson. How are you today?

17 A. I'm fine. Good morning.

18 Q. Good morning. Okay. So let's just start off kind of  
19 where we left off during your direct examination.

20 One of the things you said is there's no way to  
21 know where he's going to be since he hasn't followed your  
22 directions, correct?

23 A. I said there's no reason to believe that he would follow  
24 my directions, yes.

25 Q. Okay. So let's talk about his arrest. He was located

1 because of his GPS location, correct?

2 A. Yes.

3 Q. In other words, he didn't cut off his bracelet, did he?

4 A. No.

5 Q. And in fact, he was arrested outside of his brother's  
6 home in Hopkins, correct?

7 A. Yes.

8 Q. The same address that's listed on his driver's license  
9 that he's had for quite a while, correct?

10 A. Yes.

11 Q. Now, let's go back to your qualifications. You've been  
12 a supervisor recently, but you've also been a line PO,  
13 correct?

14 A. Yes.

15 Q. That means you've supervised offenders, correct?

16 A. Yes.

17 Q. Part of the goal of probation is to help offenders  
18 succeed, correct?

19 A. Yes.

20 Q. You want them to integrate back into their community?

21 A. Yes.

22 Q. And for Mr. Ivers, his community has always been  
23 Minnesota, correct?

24 A. No.

25 Q. For the most part of his life it's been Minnesota,

1 correct?

2 A. According to Mr. Ivers, yes.

3 Q. According to your probation officer -- or Probation, who  
4 wrote the PSR, correct?

5 A. Correct.

6 Q. In fact, they stated in the PSR report that Mr. Ivers  
7 was born and raised in Minnesota.

8 A. Correct.

9 Q. He left for a short period to go to California.

10 A. Correct.

11 Q. And right prior to this offense conduct he was living in  
12 North Dakota for a brief period.

13 A. Yes.

14 Q. But other than that, born and raised in Minnesota,  
15 correct?

16 A. Yes.

17 Q. And in fact, he has siblings that live here in  
18 Minnesota?

19 A. I know the brother.

20 Q. He has two brothers living in Minnesota, correct?

21 A. The only one I've ever spoken about was the one brother  
22 that he -- I'm assuming yes, that he has two brothers here.

23 Q. Okay. If the probation officer wrote that in the PSR,  
24 you have no reason to doubt that --

25 A. No, no reason to, no.

1 Q. And in fact, he went to school right here in Minnesota?

2 A. Yes.

3 Q. And when he has said to Probation over and over again he  
4 wants to go home, home to him has always been the Hopkins  
5 area in Minnesota, correct?

6 A. Yes, according to him, yes.

7 Q. So let's talk about why it is that he's in North Dakota.

8 When he was getting released from prison, it was  
9 Mr. Ivers who suggested that he go to North Dakota, correct?

10 A. Yes.

11 Q. And that was because he wanted to pick up a vehicle that  
12 his sister had in North Dakota for him, correct?

13 A. Yes.

14 Q. And when his sister was interviewed during the PSR  
15 process, she said: My home's open in North Dakota, but on a  
16 temporary basis, correct?

17 A. I'm not aware of that.

18 MS. ATWAL: Your Honor, may I approach?

19 THE COURT: Yes.

20 Q. I'm going to show you the PSR.

21 Mr. Wilson, I'll refer you to paragraph 74. And  
22 do you see right there it says the last line that his sister  
23 said that Mr. Ivers could live with her temporarily,  
24 correct?

25 A. Yes.

1 Q. So at Mr. Ivers' suggestion when he was getting released  
2 from prison, he's sent to North Dakota, correct?

3 A. Yes.

4 Q. And in fact in Government's Exhibit 1 and 3, which is  
5 the judgment, which includes standard conditions of  
6 supervision, special conditions of supervision, nowhere in  
7 this document does it say he cannot reside in Minnesota,  
8 correct?

9 A. Correct.

10 Q. In fact, the hearing that Judge Pratt held back in  
11 October after Mr. Ivers' prior attorney filed a motion for  
12 travel, it was suggested by his North Dakota probation  
13 officer that the plan was always for Mr. Ivers to be  
14 supervised and to live in Minnesota, correct?

15 A. Correct.

16 Q. And in fact, that probation officer was under the  
17 impression that that was going to happen in October of 2019,  
18 correct?

19 A. I can't say that I can speak to that. I can't speak for  
20 what his thoughts were. I don't know.

21 Q. Were you at that hearing?

22 A. I was not.

23 Q. Did you talk to Mr. Weinberger about that hearing?

24 A. I did.

25 Q. Do you recall Mr. Weinberger telling you that there was

1 some plan for Mr. Ivers to be moved back to Minnesota  
2 sometime in October?

3 A. I don't recall him talking about Mr. Ivers moving back  
4 in October, no.

5 Q. Why was it that Probation did not want him here in  
6 Minnesota?

7 A. The victim lives in Minnesota.

8 Q. Okay. So let's talk about that for a moment.

9 It's true in the PSR that they talk about the  
10 offense conduct, correct?

11 A. Correct.

12 Q. And in one of the paragraphs it states that after verbal  
13 threats were made against the victim, that the marshals  
14 started kind of keeping tabs on Mr. Ivers, correct?

15 A. Correct.

16 Q. And at one point they noted that he traveled from North  
17 Dakota to the Cities, correct?

18 A. Correct.

19 Q. And at no time did he attempt to make contact with the  
20 victim, correct?

21 A. Correct.

22 Q. At no time did he try to come to the federal courthouse?

23 A. Correct.

24 Q. At no time did he try to go to the victim's residence?

25 A. Correct.

1 Q. And in fact when he traveled on February 9th which he  
2 gave notice for, there was no indication he tried to come to  
3 the federal courthouse in St. Paul or to the victim's  
4 residence, correct?

5 A. That's correct.

6 Q. There's been no allegations that he's attempted to  
7 contact the victim in this case, correct?

8 A. Correct.

9 Q. And in fact, the threats that were made, it was a verbal  
10 conversation that he had with his attorneys at the time,  
11 correct?

12 A. Yes, correct.

13 Q. In other words, there was no direct threats to the  
14 alleged victim?

15 A. Correct.

16 Q. Now, going back to some of your testimony from earlier,  
17 you said you were familiar with this case because of -- you  
18 had a lot of conversations about the GPS and things like  
19 that, correct?

20 A. Yes, special circumstances, yes.

21 Q. Okay. So on January 30th, you and PO Weinberger went up  
22 to see Mr. Ivers and go over Government's Exhibit 3,  
23 correct?

24 A. Correct.

25 Q. And you again read to him I think it was paragraph 3 on

1 the special conditions, correct?

2 A. Correct.

3 Q. Can you read that for me again?

4 A. Number 3?

5 Q. Yes.

6 A. "You must not knowingly leave the federal judicial  
7 district where you are authorized to reside without first  
8 getting permission from the court or the probation officer."

9 Q. So the last part says "from the court or the probation  
10 officer," correct?

11 A. Yes.

12 Q. So you review this with him on the 30th.

13 A. Yes.

14 Q. And he turns around and says, "Mr. Weinberger, I want to  
15 go to Minnesota," correct?

16 A. Correct.

17 Q. "I want permission from you, my probation officer."

18 A. Yes.

19 Q. And then you guys tell him, "No, it has to be from the  
20 Court," right?

21 A. Yes.

22 Q. So in other words saying, "Yes, we want you to follow  
23 condition number 3, but what we really mean, you have to  
24 have permission from the Court, not from the PO."

25 A. No, when we said get permission from the Court, because



1 we're not giving him permission.

2 Q. Okay. So when he was -- when you said earlier that if  
3 Mr. Weinberger had said, "I give you permission," you would  
4 have objected to that and said, "No, you've got to get  
5 permission from the Court."

6 A. Yes, because we were not giving him permission to come  
7 to Minnesota.

8 Q. Okay. So what did you mean by your statement that if  
9 the probation officer had given him permission, you would  
10 have objected?

11 A. I would have objected because we were not giving him  
12 permission. If he said that he wanted to allow him to go  
13 right that minute, that I would object as his supervisor --

14 Q. Okay. As his supervisor --

15 A. As a supervisor, yes, because he was not going to be  
16 getting permission from us. If he wanted to come, he'd have  
17 to go through Judge Pratt, because we were not going to give  
18 it to him.

19 Q. All right. So after he reads paragraph 3 that says  
20 "court or probation officer," it was three days later that  
21 he's upset on the phone with Mr. Weinberger, correct?

22 A. Yes.

23 Q. He's upset and says, "Talk to my attorney."

24 A. Yes.

25 Q. And in fact, you guys have told him, "Go to your

1 attorney. File a motion to see if you can travel," correct?

2 A. Yes.

3 Q. So when Mr. Weinberger's calling him, he says, "I don't  
4 want to talk to you. Call my attorney." In not so many  
5 words, but the general gist of it was to call his attorney.

6 A. Yes.

7 Q. Okay. Now, on that same day, on January 30th, you and  
8 Mr. Weinberger also received notice that his prior attorney,  
9 Dan Scott, had filed a notification with the Court, correct

10 A. Yes.

11 Q. And that notification said -- it was ECF filing 226.

12 MS. ATWAL: Your Honor, may I approach?

13 THE COURT: Yes.

14 Q. Mr. Wilson, I'm showing you Defendant's Exhibit 1, which  
15 is ECF filing 226, which I had previously given a copy to  
16 the Government.

17 MS. ATWAL: Your Honor, I now move to enter  
18 Defendant's Exhibit 1, which is document filing 226 from  
19 ECF.

20 THE COURT: Any objection?

21 MS. ALLYN: No objection.

22 THE COURT: Defendant's Exhibit 1 is received. Do  
23 you have a copy for me?

24 MS. ATWAL: Oh, yes, Your Honor. I'm sorry. May  
25 I approach?

1 THE COURT: That's all right.

2 (Pause)

3 THE COURT: Thank you.

4 BY MS. ATWAL:

5 Q. Mr. Wilson, what this notice says: "Robert Philip  
6 Ivers, through counsel, hereby provides notice that, now  
7 that he is no longer under the supervision of the North  
8 Dakota Probation Office, he intends to travel to the  
9 Minnesota United States Probation Office in Minneapolis,  
10 Minnesota on February 10th, 2020, to personally report to  
11 his Probation Officer during business hours," right?

12 A. Yes.

13 Q. Okay. So this is filed on ECF. You have notice of  
14 this, correct?

15 A. Yes.

16 Q. Mr. Weinberger has notice of this.

17 A. Yes.

18 Q. Did you discuss this document with Judge Pratt?

19 A. Mr. Weinberger may have spoken with Judge Pratt.

20 Q. You don't know?

21 A. I'm not positive.

22 Q. Did you have a discussion with the Government about this  
23 document prior to February 10th?

24 A. Did I? No.

25 Q. Did Mr. Weinberger?

1 A. Not that I know of.

2 Q. Okay. So everybody had notice that this is what  
3 Mr. Ivers wanted to do.

4 A. Yes.

5 Q. So in order to make sure he succeeds and does well on  
6 probation, nobody files an objection to this notice, do  
7 they?

8 A. No.

9 Q. Judge Pratt doesn't issue an order saying you can't  
10 travel?

11 A. No.

12 Q. The Government, as far as you know, didn't file a notice  
13 saying you got to stay put; otherwise, we're going to file a  
14 violation.

15 A. No.

16 Q. And in fact, when he crossed the border to come into --  
17 from Fargo, North Dakota, it takes about four hours from the  
18 border, you said, three or four hours?

19 A. Yes.

20 Q. Okay. He wasn't arrested until later on in that evening  
21 when he was outside of his brother's home, correct?

22 A. Correct.

23 MS. ATWAL: Your Honor, may I just have a moment?

24 THE COURT: Yes.

25 BY MS. ATWAL:

1 Q. Also, when -- you did say that Mr. Weinberger had talked  
2 to his sister Janet, correct?

3 A. Correct.

4 Q. And that she said he was more than welcome to stay at  
5 our house.

6 A. Correct.

7 Q. She also informed Probation at that time that he wanted  
8 to go home to Minnesota, correct?

9 A. Correct.

10 Q. And in fact, the October phone calls that are not a part  
11 of this hearing, he sounds pretty desperate. He keeps  
12 saying he wants to succeed, do well, and that would mean  
13 being home in Hopkins, correct?

14 A. Correct.

15 Q. He says he wants medical care, he wants to be close to  
16 his brother and get housing, correct?

17 A. Correct.

18 Q. Would you agree with me in some of those phone calls he  
19 sounds desperate to be back in Minnesota?

20 A. I can't speak to his state of mind, but he sounded  
21 angry.

22 Q. Okay. Did he sound desperate?

23 A. He sounded angry to me, not desperate.

24 Q. Okay. In the October phone calls when he's saying he's  
25 losing it, he really wants to just be in Minnesota?

1 A. He sounds angry to me.

2 Q. Okay. So you don't think he sounds desperate.

3 A. I wouldn't say desperate. I said he sounds angry.

4 Q. Okay. Now, you would agree with me that Mr. Ivers has  
5 completed mental health treatment as was required by the  
6 Court, correct?

7 A. Correct.

8 Q. He successfully completed that.

9 A. Correct.

10 Q. You would agree with me that when the hearing happened  
11 last year when he was on his second motion to travel, the  
12 probation officer at that time noted that Mr. Ivers had been  
13 compliant with Probation, correct?

14 A. Correct.

15 Q. He had not had a single violation on GPS.

16 A. Correct.

17 Q. His house had been searched. There was nothing  
18 threatening found inside his home.

19 A. Correct.

20 Q. No firearms found in his home?

21 A. Correct.

22 Q. And in fact, he kept in contact with his PO, went to the  
23 Probation Office when he was supposed to, correct?

24 A. Correct.

25 Q. Was at his home at his sister's place when the PO said,

1 "I'm going to come visit," he was there.

2 A. Correct.

3 Q. And in fact, the North Dakota PO said he was being  
4 compliant.

5 A. Correct.

6 Q. In regards to -- just give me a moment. Sorry.

7 MS. ATWAL: Sorry, Your Honor. I apologize.

8 THE COURT: No, go ahead.

9 (Pause)

10 BY MS. ATWAL:

11 Q. Just going to the safety factors, when you searched his  
12 home on January 30th, it was you and Officer Weinberger,  
13 correct?

14 A. It was not a search. It was just an inspection.

15 Q. Okay. What does that mean?

16 A. Well, a search would mean we'd be looking for something.

17 Q. What's an inspection?

18 A. An inspection is just an overall look at the residence,  
19 layout of the home, see all the rooms, just confirm that he  
20 lives there.

21 Q. So you weren't concerned enough about Mr. Ivers to do a  
22 search of the home.

23 A. No, we didn't -- we weren't authorized to do a search.

24 We weren't doing a search. It was an inspection, as I just  
25 mentioned.

1 Q. Okay. You didn't see anything like a firearm sitting  
2 out, correct?

3 A. Correct.

4 Q. You didn't see a bomb-making kit or anything like that  
5 sitting out?

6 A. Correct.

7 Q. And in fact, looking at Mr. Ivers' record, there is no  
8 type of violence on his record but for the 2016 excessive  
9 phone call conviction, correct?

10 A. Correct.

11 Q. Finally, when he was in prison -- he was sent off to  
12 prison for 18 months and I know it was a little bit shorter  
13 than that because of his time in Sherburne County -- there's  
14 no indication that he did not behave well in prison; in  
15 fact, it shows that he did well in prison.

16 A. Correct.

17 Q. If he is released to a halfway house, you can still have  
18 GPS monitoring at a halfway house, correct?

19 A. Correct.

20 Q. There is staff at the halfway house that can monitor  
21 offenders, correct?

22 A. Correct.

23 Q. There can be a condition placed that he continue with  
24 mental health treatment, correct?

25 A. Correct.



1 Q. And he still can be supervised by his probation officer,  
2 correct?

3 A. Correct.

4 Q. Thank you?

5 MS. ATWAL: I have nothing further, Your Honor.

6 THE COURT: Thank you. Ms. Allyn, anything by way  
7 of redirect?

8 MS. ALLYN: Yes. Thank you, Your Honor.

9

10 **REDIRECT EXAMINATION**

11 BY MS. ALLYN:

12 Q. Probation Officer Wilson, I think when Ms. Atwal was  
13 first asking you about this address where Mr. Ivers went to  
14 when he was arrested, do you recall those questions?

15 A. Yes.

16 Q. I think you answered that this was the same address as  
17 he lived at before. Do you know that to be true at all?

18 A. No, I wasn't saying that he lived there before. That's  
19 the same address that was on his identification.

20 Q. Okay. So he has not lived at that address before, is  
21 that right?

22 A. Not that I knew of.

23 Q. Explain to me what you know or understand for him having  
24 gotten identification that happens to have this address on  
25 it.

1 A. At the beginning of supervision, Mr. Ivers was allowed  
2 to go into Moorhead, Minnesota, and reestablish his driver's  
3 license, his identification, and that's the address that he  
4 used on his application. That's the address that he had put  
5 on his Minnesota ID.

6 Q. So how do you characterize using an address where he's  
7 never lived to get an identification?

8 A. Fraudulent.

9 Q. Is that how Judge Pratt viewed it?

10 A. I believe so.

11 Q. This brother that Mr. Ivers went to, house in Hopkins,  
12 do you know that he's been civilly committed as  
13 schizophrenic and bipolar?

14 A. Yes.

15 Q. And you had heard that the circumstances of the arrest  
16 were that Mr. Ivers was in a car at this address, is that  
17 right?

18 A. Yes, he was in his vehicle. My understanding, they said  
19 sleeping.

20 Q. Do we even know for sure this was his brother's address?

21 A. That's the address that he says his brother lived at.

22 I'm not sure if that's his brother. He had mentioned to me  
23 when we were in the meeting on January 3rd that that was his  
24 friend's address and that's why he used the address. He  
25 said his friend.

1 Q. There's some testimony about the North Dakota probation  
2 officer and he thought Mr. Ivers was coming back in October  
3 to Minnesota. Do you remember all that? Is that true? Do  
4 you remember --

5 A. I wasn't -- I wasn't in the hearing, so I can't say that  
6 he said it or he didn't say it. There was no discussion  
7 with us or with Jim and there was nothing he said that said  
8 that there was any plan for him to move back at that  
9 particular time, that I know of.

10 Q. Is it fair to say that that North Dakota probation  
11 officer wanted rid of Mr. Ivers?

12 A. They requested to relinquish their interest in the case  
13 and I believe it was based on the behavior of Mr. Ivers and  
14 his insistence --

15 MS. ATWAL: Objection. Speculation.

16 THE COURT: Overruled.

17 Q. Probation Officer Wilson, moving on regardless, there's  
18 some testimony about Mr. Ivers is not prohibited from coming  
19 to Minnesota in his conditions, right?

20 A. No, he's not prohibited.

21 Q. Was it your view or Mr. Weinberger's view that if  
22 Mr. Ivers could be compliant for, I don't know, say six  
23 months, a year, he'd be allowed to travel to Minnesota?

24 A. It would probably increase his chances of being able to  
25 come to Minnesota. He wants to come on his -- as far as I

1 can see, when he's ready and it's been made clear to him he  
2 needs permission from us or Judge Pratt. At this time we're  
3 giving permission, so we direct him to -- if he wants -- if  
4 Judge Pratt says he can come, then he can come and we would  
5 make accommodations for him to come and take care of his  
6 business and return to North Dakota unless Judge Pratt says  
7 differently.

8 Q. But as of now, Probation's been denying it because he's  
9 just not being compliant for a long enough period of time,  
10 is that true?

11 A. Correct.

12 Q. Back on February 2nd, February 3rd, I think when  
13 Mr. Weinberger was trying to talk to Mr. Ivers, do you  
14 remember that time period?

15 A. Yes.

16 Q. And that's when Mr. Ivers said, you know, "F you. Talk  
17 to my lawyer," right?

18 A. Correct.

19 Q. But Mr. Weinberger was not trying to talk to Mr. Ivers  
20 about the travel at that time, is that right?

21 A. That conversation was about his GPS and his electronic  
22 monitoring. There was issues with it, he was getting  
23 alerts. He wanted to talk to Mr. Ivers about making sure  
24 that issue was corrected. Mr. Ivers said, "F you, talk to  
25 my attorney. I don't want to talk to you." It had nothing

1 to do with travel. It was simply about the electronic  
2 monitoring on that particular day.

3 Q. So Mr. Ivers was refusing to talk to Probation even  
4 about GPS monitoring, is that true?

5 A. Yes, which is a violation of his -- of his conditions  
6 and a violation of what he signed with the agreement for his  
7 electronic monitoring, that he would be able to be reached  
8 at all times and he'd be available to take -- to have  
9 conversation if there were issues with the monitoring.

10 Q. Defendant's Exhibit Number 1, it's labeled as a notice,  
11 is that correct?

12 A. Yes.

13 Q. So it's not a motion, is it?

14 A. No.

15 Q. And Judge Pratt would have had that notice in ECF equal  
16 to you or equal to me, is that true?

17 A. Yes.

18 Q. And did Judge Pratt rule -- make any ruling about that  
19 notice?

20 A. No.

21 Q. Did Judge Pratt thereafter give Mr. Ivers permission to  
22 leave North Dakota?

23 A. No.

24 Q. Did Judge Pratt sign the search warrant for Mr. Ivers  
25 even after having -- that notice had been filed --

1 THE COURT: Search warrant?

2 MS. ALLYN: I'm sorry. Arrest warrant. I'm used  
3 to saying search warrant.

4 A. Yes.

5 MS. ALLYN: Nothing further, Your Honor. Thank  
6 you.

7 THE COURT: All right. Anything further,  
8 Ms. Atwal?

9 MS. ATWAL: Just briefly, Your Honor.

10 THE COURT: All right.

11

12 **RECROSS-EXAMINATION**

13 BY MS. ATWAL:

14 Q. Officer Wilson, after that February 3rd phone call with  
15 Mr. Weinberger, Ms. Thompson was able to change up the  
16 equipment, correct?

17 A. Yes.

18 Q. And that happened after the phone call.

19 A. Yes.

20 Q. In other words, after you got off the phone with  
21 Mr. Weinberger, he allowed Probation to put the GPS and redo  
22 the equipment, correct?

23 A. Yes.

24 Q. Talking about that address, the one in Hopkins, you're  
25 also aware that Mr. Ivers has ran for mayor at least two

1 times in the City of Hopkins.

2 A. Yes.

3 Q. And in order to run for mayor, you have to be a resident  
4 of that city, correct?

5 A. Yes.

6 Q. And nobody's ever called into question that he has not  
7 been a resident of Hopkins, correct, when he ran for mayor?

8 A. Correct.

9 Q. Thank you.

10 MS. ATWAL: I have nothing further.

11 THE COURT: Thank you.

12 MS. ATWAL: Oh, wait. I'm sorry. One more  
13 question.

14 THE COURT: All right. That's fine.

15 BY MS. ATWAL:

16 Q. And, Mr. Wilson, if the Court finds that he has violated  
17 the conditions of supervised release, his advisory guideline  
18 range is four to ten months, correct?

19 A. Correct.

20 Q. Thank you.

21 MS. ATWAL: I have nothing further, Your Honor.

22 THE COURT: All right. You may step down, Officer  
23 Wilson. Thank you.

24 Do you have any other witnesses to call,

25 Ms. Allyn?

1 MS. ALLYN: No, Your Honor. Thank you.

2 THE COURT: Do you have any witnesses to call,  
3 Ms. Atwal?

4 MS. ATWAL: Your Honor, against my advice,  
5 Mr. Ivers wishes to take the stand.

6 THE COURT: All right.

7 Now, Mr. Ivers, you understand that you've got the  
8 right to remain silent, right?

9 THE DEFENDANT: That's correct.

10 THE COURT: And you understand that anything you  
11 say can and will be used against you.

12 THE DEFENDANT: Yes.

13 THE COURT: And you also understand that if you  
14 testify in response to direct examination, that Ms. Allyn  
15 will have the opportunity to cross-examine you.

16 Do you understand that as well?

17 THE DEFENDANT: That's correct.

18 THE COURT: Okay. Then please raise your right  
19 hand.

20

21 **ROBERT PHILIP IVERS, DEFENDANT, SWORN**

22 THE DEFENDANT: I do.

23 THE COURT: All right.

24 THE DEFENDANT: And I'm borderline diabetic. I  
25 suffer from a very dry throat. Could I get some of your



1 water, please?

2 THE COURT: Absolutely. Actually, my water has  
3 gone dry as well, but is there any at counsel table?

4 MS. ATWAL: No.

5 THE COURT: There isn't. You know what? Let's --  
6 we're going to recess for two minutes. I'm going to run  
7 back and get you some water.

8 THE DEFENDANT: Sounds good. Thank you.  
9 Appreciate it.

10 THE CLERK: All rise.

11 (Recess taken at 12:26:23 p.m.)

12 \* \* \* \*

13 (12:27:35 p.m.)

14 IN OPEN COURT

15 THE COURT: ... but you need to respond to her  
16 questions and not just kind of go off and provide a  
17 narrative. So you need to make sure you're responding to  
18 Ms. Atwal's questions. And if there's something else that  
19 she wants to ask you, she'll ask you the next question.

20 So if you could observe that question-and-answer  
21 format, I would appreciate it.

22 THE DEFENDANT: Let's start by my prison release,  
23 what happened.

24 THE COURT: Well, let -- actually --

25 MS. ATWAL: I have to ask the question.

1 THE COURT: Let her start. She's a wonderful  
2 lawyer. Let her --

3 THE DEFENDANT: I --

4 THE COURT: -- take the lead.

5 THE DEFENDANT: Yes, she is a wonderful lawyer.

6 THE COURT: All right.

7 THE DEFENDANT: I was going to say that.

8 THE COURT: All right. So listen to her question.

9 MS. ATWAL: Thank you, Your Honor.

10 THE DEFENDANT: Okay.

11

12 **DIRECT EXAMINATION**

13 BY MS. ATWAL:

14 Q. All right. Mr. Ivers, can you state your name for the  
15 record and your age?

16 A. Robert Philip Ivers, one "l," P-H-I-L-I-P, I-V, as in  
17 victory, E-R-S.

18 Q. How old are you?

19 A. 66.

20 Q. Do you have some medical problems?

21 A. Yes. I have a --

22 Q. What are those?

23 A. -- bulging hernia and I have stage 2 bladder cancer.

24 Q. Where were you born and raised?

25 A. I was born and raised in Minnetonka, Minnesota, but we

1       went to the Hopkins school district, and both of them are  
2       suburbs of Minneapolis.

3       Q.   Okay.  Let's talk about now when you were released from  
4       prison.

5       A.   Yes.

6       Q.   Why is it that you requested to go to North Dakota?

7       A.   When I was released from prison, I was called into an  
8       office by three or four prison officials, and they nearly  
9       rubber-hosed me.  They said, "Why are you demanding to go to  
10      North Dakota?  We insist that you go to Minneapolis.  It's  
11      the Bureau of Prisons' policy that you go there.  Get rid of  
12      this North Dakota dream.  It's not going to happen.  You're  
13      not going to go there."  And I had to fight and argue and  
14      kick and scream.

15                 And I said, "My car is" -- I had boughten a car  
16      just three days before I was arrested, very nice Toyota  
17      Camry.

18      Q.   Okay.

19      A.   "My car is there.  I need to renew my driver's license,"  
20      which had expired while I was in prison, and I needed to go  
21      to the Social Security office and I needed my sister's help  
22      and support with regard -- I didn't have a driver's license.  
23      She needed to drive me around and I needed to go there to  
24      get those three -- those were the three primaries:  car,  
25      renew license, and Social Security.

1           Previously from prison, well-documented, had made  
2           it extremely clear to Judge Pratt and in his various motion  
3           is he states it as well that it was understood in no  
4           uncertain terms that I was just going to North Dakota on a  
5           very temporary basis until I accomplished those three  
6           objectives and then I would be allowed to return home.

7           Q.   Okay.   So let's talk about once you get to North Dakota.  
8           Do you get a North Dakota PO?

9           A.   The Bureau of Prisons went way out of their way to do me  
10          basically a favor.

11          First of all, my entire life I've never been on a  
12          train and wanted to take a train trip and they bought me a  
13          train ticket on Amtrak first class, the white table cloth  
14          deal, the whole bit.   It was very nice.   I'll never do it  
15          again.

16          But I took an Amtrak from Chicago to North Dakota,  
17          and within I think that next -- I got in at 4:00 in the  
18          morning and that next day I met up with my probation  
19          officer.

20          Q.   So, Mr. Ivers, what I want you to try and do is really  
21          listen to my question and try and answer my question as  
22          direct as you can, okay?

23          A.   Okay.

24          Q.   So you get your North Dakota probation officer.   Were  
25          you compliant with your probationary terms with that

1 probation officer?

2 A. Everything.

3 Q. Did you remain law abiding?

4 A. Yes.

5 Q. Were you able to get your driver's license?

6 A. Yes.

7 Q. Were you able to get your Social Security?

8 A. Yes.

9 Q. Were you able to get your vehicle?

10 A. Yes.

11 Q. At some point did you make a request to come back to  
12 Minnesota?

13 A. Pardon me?

14 Q. At some point did you make a request to come back to  
15 Minnesota?

16 A. Yes, through Dan Scott we asked for -- I had talked to  
17 Jim Weinberger in this period, and he told me, he said  
18 after -- just a few days after being at my sister's,  
19 actually after accomplishing the Social Security, the car, I  
20 called him up and I said, "I'm ready to come home and to  
21 conduct business," and he said, "Not so fast. We're going  
22 to keep you there." And it hurt and it bothered me. And I  
23 said, "Well, what's the plan here?" And he said, "Well,  
24 we're just going to keep you there as long as" -- "until we  
25 feel like it."

1           Then that -- that was a wall, so I called up my  
2       attorney, Dan Scott, and he filed the motion for a two-day  
3       pass to come into town to find a reasonable -- better than  
4       reasonable, good solid lodgings for me to stay at that  
5       Probation could come and examine and look and okay so that I  
6       could be in my hometown and resume my life and conduct my  
7       business.

8           So we started by filing the two-day pass to come  
9       into town.

10      Q.   Why was it that you wanted to be in Minnesota?

11      A.   It's where I was born and raised. I have not only -- my  
12      poor, dear mentally handicapped brother, last week he was  
13      just in Methodist Hospital's psych ward. He needs me so  
14      desperately and he wonders where I am. I have nieces and  
15      nephews and another brother. I have ten, 15 relatives.

16           My father was born in New Richland, Minnesota.  
17      It's my home. It's where I live. I had to beg and scream  
18      and fight and yell with the Bureau of Prisons to go to North  
19      Dakota to get my car. That's the only reason why I was  
20      there, the only, only reason.

21           And three days before I was indicted -- which  
22      actually ended up being a false indictment; they had to  
23      reindict me two months later because they didn't even get  
24      the indictment correct -- I had my car packed and was on my  
25      way headed home. I was actually in three days was going to

1 get on an airplane and go to a Pepsi Cola shareholders  
2 convention. I'm a minor shareholder, but I have a big  
3 promotion that I'm going to present to them. So I was three  
4 days away from them showing up. I was going to get in my  
5 car and go back home.

6 Q. Now, have you -- if you were released today, when is  
7 your next court appearance?

8 A. I see that somebody confused me around here. It's on  
9 either the 13th or 17th of February.

10 Q. If this Court released you, would you show up?

11 A. I have never, ever, ever, ever missed a court date in my  
12 life. I like court. I would crawl across broken glass to  
13 get to court. I've gotten up at 3:00 and 4:00 in the  
14 morning to make court appearances. I've gotten up at 3:00  
15 and 4:00 in the morning and rode my bicycle five miles to  
16 get on a bus to appear in court. I don't ever, ever miss my  
17 court appointments.

18 Q. So let's say we're in front of Judge Pratt on March 13th  
19 and he finds you in violation. He could send you back to  
20 prison and you could go to prison for four to ten months,  
21 maybe longer.

22 A. That's correct.

23 Q. How would the Court know that you would still show up  
24 knowing that you could go back to prison?

25 A. Four to ten months is --

1 THE WITNESS: Judge, I'm 66 years old. I've had a  
2 hard life. My life has never, ever been in such perfect  
3 order. I have a Toyota Camry. It's Blue Booked at three  
4 thousand. I got it for 1500. It's been gone over. It's  
5 just tricked out. It's beautiful, new tires, new windshield  
6 wipers, new battery, full tank of gas, fully insured. Tabs  
7 are on it until the 14th. I got a couple grand hard cash.  
8 I got a sister who's a successful businesswoman. She can  
9 rent me a motel room anywhere in the world with just a phone  
10 call for a year. I could stay at Trump Towers just off her  
11 dining card, anywhere. I have a fantastic support system.

12 There is no reason for me to flee for a rinky-dink  
13 little four-month sentence in prison, or even a ten-month  
14 sentence. Why would it take me 16 -- 66 years to finally  
15 get my ducks in a row that I would flee over a rinky-dink  
16 little four-month.

17 Judge Pratt, my attorney, never, ever let me --  
18 every time he saw me he said, "You wanna know what? This  
19 judge is fully within his rights to give you 15 years in  
20 prison," and he said, "You get ready for it." He said, "You  
21 square up and get ready."

22 And the prosecution wanted five years. Judge  
23 Pratt gave me 18 months. Now, that tells you something  
24 about what was in his head. I think he realizes this was  
25 just a lame complaint phone call with an attorney. No



1 judges were ever threatened. I was never running around.  
2 Nobody ever got threatened or contacted. This was -- my  
3 attorney interpreted something that she thought I said.

4 The point I was trying to make is Judge Pratt on  
5 the 17th, he might say, "You want to know what? Just get  
6 out of the courthouse and stay out of trouble." At worst he  
7 could say ten months. So what. Big deal.

8 Now, my plan -- excuse me.

9 THE COURT: Well, I think you've probably gotten  
10 to the end of that --

11 THE DEFENDANT: I got one more rant. My --

12 THE COURT: Well, I'm not interested --

13 THE DEFENDANT: My -- my plan --

14 THE COURT: Hold on, Mr. Ivers. I'm not  
15 interested in a rant. I'm interested in answers to  
16 Ms. Atwal's --

17 THE DEFENDANT: It's just a sentence.

18 THE COURT: -- questions.

19 THE DEFENDANT: It's just a sentence.

20 My plan is to go into Hopkins, get my car, hug my  
21 brother, and drive down Flying Cloud Drive to the Best  
22 Western motel. And I need to rub elbows and shmooze and  
23 talk with them and I want to do a month-to-month room  
24 rental. And I want to shave down the cost on it by telling  
25 them that I don't need all the room service and sheets

1 changed and all this, but I've got to go over there and  
2 shmooze with them and talk with them. I got a pocket full  
3 of cash, pull out eight, \$900, and I would -- and they'd  
4 say, "Yeah." From that area, which Probation can come --  
5 it's a motel room. There's not going to be anything in it.  
6 I don't want my friends in trouble. I was in prison with  
7 guys -- somebody found a civil war gun out in some guy's  
8 barn and the guy ended up going into prison because of --

9 MS. ATWAL: Okay. Mr. Ivers?

10 THE DEFENDANT: -- this silly little thing. I  
11 want a hotel room because it's clean. Probation can come  
12 over and anything that's in that room is mine and that's why  
13 I want to do it this way. From that hotel room I will go  
14 into town. Maybe I can rent a nice room above somebody's  
15 garage or something.

16 THE COURT: We've gotten to the end, way past --

17 THE DEFENDANT: I wanted you to get to know me a  
18 little bit.

19 THE COURT: I understand, but let's leave it to  
20 Ms. Atwal to ask the right question pertinent to what we're  
21 talking about here.

22 BY MS. ATWAL:

23 Q. Okay. Mr. Ivers, so your plan -- you want to stay at a  
24 motel in Chaska, is that correct, temporarily?

25 A. Temporary convenience.

1 Q. Okay. Now, if the Court ordered you to stay in a  
2 halfway house, would you comply with that condition?

3 A. I would comply with that condition just as long as they  
4 didn't turn it into an enslavement, that I was allowed to --  
5 it's standard policy.

6 Q. Okay. What I'm asking --

7 A. I would stay at a halfway house. My preference would be  
8 that they treated me decently and respectfully and said,  
9 "Bob, if you want to go out today and look for some  
10 lodgings, that's a good idea. There's nothing wrong with  
11 that."

12 Q. Okay. Would you promise the Court that you won't use  
13 vulgar language or be loud?

14 A. The only time I -- Mr. Odell, who I like very much, the  
15 third, he interpreted it as anger. I was just -- you can't  
16 understand the frustration of being sequestered in North  
17 Dakota. I --

18 Q. Okay. Mr. Ivers --

19 A. I had lawsuits that I've lost because I couldn't get  
20 into court. All of my business, all of my business  
21 connections. The recording studio I work out of. I need to  
22 be with my personal assistant. I wrote two children's  
23 books. We have to go over them. I have to go to print  
24 shops. I have five publishers waiting to look at these  
25 books. I can't do it from North Dakota, and I was driven to

1 a breaking point, driven to a breaking point, especially --

2 Q. Okay. But let's --

3 A. -- when I knew Jim Weinberger could say, "Bob, come into  
4 town. Let's have a beer. Let me get to know you. Let's  
5 talk a little bit." Instead, he decided I'm going to punish  
6 this guy. I'm going to make him squirm and I'm going to  
7 hurt this guy, and that's exactly what took place.

8 THE COURT: That --

9 Q. Well, let's --

10 MS. ATWAL: Sorry, Your Honor.

11 THE COURT: No, go ahead. I was just -- get to  
12 the next question.

13 BY MS. ATWAL:

14 Q. Putting that to the side, one of the things the judge  
15 has to look at is whether you should be detained or  
16 released. I want to ask you -- I want you to really direct  
17 your answers to that factor.

18 If the Court released you to a halfway house,  
19 would you follow the directions of those people that are  
20 supervising you at that halfway house?

21 A. Yes.

22 Q. Would you agree not to raise your voice or scream or be  
23 disrespectful as long as people are being respectful to you?

24 A. Motion number two was to be -- we -- I asked to go --

25 Q. I'm asking you --

1 A. Of course. You want to know why? I wouldn't be filled  
2 with frustration. I would be home.

3 Q. Okay. Now, there was a thing about your driver's  
4 license. This driver's license address you've used, how  
5 many years have you been using that address?

6 A. Maybe six.

7 Q. For a long time.

8 A. Yeah. It's my legal address.

9 Q. Okay. Do you also sometimes have a P.O. box?

10 A. Yes, I have a P.O. box because I wanted something  
11 absolutely permanent and something that can't be tampered  
12 with.

13 Q. Okay. And has your goal always been since you went to  
14 prison to reside back somewhere in Hopkins?

15 A. Absolutely without fail, yes.

16 Q. Okay.

17 MS. ATWAL: Thank you. I have nothing further,  
18 Your Honor.

19 THE COURT: Thank you, Ms. Atwal.

20 Ms. Allyn, any cross-examination?

21 MS. ALLYN: Just a little. Thank you, Your Honor.

22

23 **CROSS-EXAMINATION**

24 BY MS. ALLYN:

25 Q. Good afternoon, Mr. Ivers.

1 A. Yeah.

2 Q. So Probation had previously offered you a chance to  
3 reside at a halfway house, but you refused. Why is that?

4 A. When? You're gonna have --

5 Q. In North Dakota.

6 A. What would be the point of being in a halfway house at  
7 North Dakota? That's not home. That's not Minneapolis.

8 Q. So you refused because you didn't want them to take some  
9 of your Social Security money, is that correct?

10 A. I refused because the object was to leave my sister's.  
11 Why would I leave the plush digs, which Odell can confirm,  
12 very plush digs at a very nice townhouse, a movie theater  
13 basement, why would I leave that to go into a halfway house?

14 Q. So you're saying you didn't tell the probation officers  
15 that you disagreed about going to a halfway house in North  
16 Dakota.

17 A. I -- I cannot remember an exact conversation, but I can  
18 tell you this: When that was suggested, that I told them,  
19 "What's the point in that? Why would I leave my sister's  
20 and go into a halfway house when the entire objective was to  
21 go home?"

22 Q. You just talked to Ms. Atwal about how you would be  
23 agreeable to a halfway house if it wasn't an enslavement.  
24 What do you mean by if it's an enslavement?

25 A. Where the people running it purposely oppress you, get

1       kicks out of purposely making you squirm where you're -- I  
2       want to be treated like a gentleman and with respect, and  
3       when I ask, "May I please go out today and look for a home,"  
4       I don't want them to say, "We need names, we need addresses,  
5       where are you going to be, we need exact locations," because  
6       that's how they came off. And I've talked to other guys in  
7       the system and they said, "You shouldn't be treated like  
8       that. That's" -- "that's terrible treatment." The  
9       probation officer should be kind. They should be gentle.  
10      They should say, "God, that's neat that you're doing this.  
11      You're going to the recording studio tonight." Well, I  
12      don't think so. Well, why? You just want to hurt me? You  
13      want to make me feel bad?

14      Q. What do you think -- what would you do then if the  
15      halfway house told you you couldn't go look for a place to  
16      live?

17      A. Well, then I wouldn't. I'd call up my attorney and  
18      probably bitch.

19      Q. So what are some other ways that the halfway house would  
20      oppress you?

21      A. Well, they can think those things up. I'm not going to  
22      do it.

23      Q. Now, you did leave North Dakota on February 9th and  
24      travel to Minnesota, is that right?

25      A. That is correct.

1 Q. And had Probation given you permission to leave North  
2 Dakota that day?

3 A. I had -- through my attorney --

4 Q. It's actually super --

5 A. Through my attorney we contacted Judge Pratt --

6 Q. Mr. Ivers --

7 A. We contacted --

8 THE COURT: Mr. Ivers? Mr. Ivers?

9 Q. Mr. Ivers, did Probation --

10 A. Nobody denied me. I did not receive a formal denial in  
11 the mail saying: If you come, we will arrest you. I did  
12 not receive a formal denial from the court, and that's what  
13 I respect, a formal denial.

14 Q. Mr. Ivers, did Judge Pratt give you formal permission to  
15 leave North Dakota?

16 A. Judge Pratt was given -- first of all, North Dakota.

17 Q. No, no. Did Judge Pratt give you permission to leave  
18 North Dakota? I don't -- I'm not asking about denial. I'm  
19 asking about permission.

20 A. Judge Pratt had no comment.

21 Q. And did Probation give you permission to leave North  
22 Dakota? I'm not talking about denial. I'm talking about  
23 permission.

24 A. No comment.

25 MS. ALLYN: Thank you, Your Honor. No further



1 questions.

2 THE COURT: Thank you. Ms. Atwal, anything  
3 further?

4 MS. ATWAL: No, Your Honor.

5 THE COURT: All right. You may step down,  
6 Mr. Ivers.

7 THE WITNESS: Thank you for the water.

8 THE COURT: Of course. In fact, if you want to  
9 take it back to the table with Ms. Atwal, you're welcome to  
10 do that.

11 Anything further, Ms. Atwal, by way of testimony  
12 or evidence?

13 MS. ATWAL: No, Your Honor.

14 THE COURT: All right. Ms. Allyn, I will hear  
15 argument on both issues, both probable cause and detention.

16 MS. ALLYN: Thank you, Your Honor.

17 I believe the testimony of Probation Officer  
18 Wilson has firmly established that there is at least the  
19 probable cause that conditions of probation have been  
20 violated.

21 There was a clear and explicit instruction to  
22 Mr. Ivers that he is not to leave the District of North  
23 Dakota without permission. Honestly, that clear instruction  
24 has been given since August. Mr. Ivers has appeared in  
25 court. He's been not denied by Judge Pratt, he's been not

1 denied by the probation officers, and yet he was arrested in  
2 Minnesota.

3 With respect to detention, however, we'd like to  
4 be heard a little bit more. Defendant has only been on  
5 probation, supervised release, for about six to seven  
6 months, and in that entire time he has just tried to bully  
7 his way into what he wants, which is not how supervised  
8 release works. Even here today, listening to Mr. Ivers  
9 testify, he's trying to do that to this Court and he's  
10 trying to do that to the system. He sat up there talking  
11 like, "I want this, I want that, I'm going to go here and  
12 get a hotel, I'm going to rub some elbows." This is not how  
13 supervised release works.

14 THE COURT: I hear you, Ms. Allyn, and I agree  
15 with respect to how supervised release is supposed to work,  
16 that there are rules and instructions to be followed.  
17 Ultimately, it would be for Judge Pratt at the final  
18 revocation hearing to decide what the implications of that  
19 conduct are.

20 The question I've got to answer today is whether  
21 there are conditions of release that would reasonably assure  
22 that Mr. Ivers will show up for that final revocation  
23 hearing and that will reasonably assure the safety of the  
24 community between now and then. So it's a somewhat more  
25 nuanced question than can we count on Mr. Ivers to, you

1 know, follow the rules. It's about the safety of the  
2 community. So speak to me about that.

3 MS. ALLYN: Thank you, Your Honor. I guess the  
4 point I was trying to make about that with respect to  
5 following the rules, the rules to include how to keep the  
6 community safe, is that a person who is willing with such  
7 intentionality, such willfulness, to disregard the most  
8 simple rules, who is trying to dictate to this Court how he  
9 is going to do what he's going to do, is a person who will  
10 not follow now your rules to him to show up or to follow the  
11 rules of a halfway house.

12 Even listening to Mr. Ivers now, watching his  
13 behavior throughout these months -- I assume the Court has  
14 read Judge Pratt's orders twice denying him his request to  
15 move to Minnesota, of which he has now willfully and  
16 intentionally thwarted by coming to Minnesota, that is not a  
17 person who's going to follow the rules of a curfew. There  
18 is at least no reason to believe that. He won't even talk  
19 to his probation officer just about changing a battery in  
20 the GPS. That is not a person then who's going to listen to  
21 the rules of a halfway house of, "No, today you can't go  
22 look for a job, or you can't go look for a place to live."  
23 He has given no indication that he can follow those rules.  
24 He hasn't had a criminal case like this where he wasn't in  
25 custody for federal court. I don't know his history,

1 actually, in Hennepin County local court.

2 But his such adamant, monofocused desire to be in  
3 Minnesota, is willing to take matters into his own hands the  
4 way he did despite explicit instructions in two orders from  
5 Judge Pratt, should alarm this Court. That to leave him out  
6 in the community right now till March 13th, we have no idea,  
7 really, how he'll behave. As that March 13th date gets  
8 closer and closer and he thinks his freedom might be  
9 restricted again, or evidently in his mind worse, sent back  
10 to North Dakota, his behavior could escalate. His inability  
11 to follow those rules will escalate, because he will want to  
12 do what he wants to do at the time and a place that he  
13 desires it.

14 And I want to speak to this idea of the safety of  
15 the community with respect to the arguments that we heard  
16 from Mr. Ivers, that somehow he hasn't really done anything,  
17 that he's not physical. Well, Your Honor, as somebody who  
18 tried Mr. Ivers for the threats against a district court  
19 judge of this district, I can promise you that just words  
20 are their own weapon and words cause their own harm, and  
21 that is something Mr. Ivers is very capable of doing, and  
22 I'd ask you to listen to Exhibit 2 just to fully understand  
23 that. His level of anger and animosity and complete  
24 inability to control his anger -- and I'm not even sure it's  
25 inability, but certainly his complete disregard,

1       unwillingness to even control his anger if his anger will  
2       get him what he wants, and that is what he will do if he's  
3       released. He'll do it either to the halfway house, he will  
4       lash out to the Court, or he'll lash out to attorneys.

5               We're just asking that Mr. Ivers remain in custody  
6       for Judge Pratt to make many of these decisions and  
7       analysis, like you said, even with respect to really what is  
8       his ability to even behave on supervised release. But it is  
9       that pattern of him deciding to do what he wants when he  
10      wants to do it is what should alarm the Court about how he  
11      would behave as that March 13th date gets closer and closer  
12      and he thought he wasn't going to get what he wanted. He  
13      would take matters into his own hands, which is exactly what  
14      he did when he drove here on February 9th, and there is no  
15      sense of security that he wouldn't do that again as  
16      March 13th approaches.

17             Thank you, Your Honor.

18             THE COURT: Thank you, Ms. Allyn.

19             Ms. Atwal.

20             MS. ATWAL: Thank you, Your Honor.

21             Respectfully, Your Honor, as the Court knows, I am  
22      asking that the Court release Mr. Ivers pending his final  
23      revocation, and Rule 32.1(a)(6) says it's my burden to show  
24      the Court by clear and convincing evidence that Mr. Ivers is  
25      not a risk to flee or a danger to any person or the

1 community. And I will tell the Court pursuant to 3142(b)  
2 and (c) and 3142(a)(1) that burden has been met.

3 Let me first address the flight factors.

4 He is not a risk to flee. As the Court heard  
5 testimony from USPO Odell Wilson and from Mr. Ivers himself,  
6 he's been a lifelong resident of Minnesota. He has  
7 siblings, he has nieces and nephews, he has everything here  
8 in Minnesota. In fact, we wouldn't be here today had it not  
9 been for his ties to Minnesota, because the whole crux of  
10 this whole issue is his need and want to be in Minnesota.  
11 Well, guess what? He's sitting in a courthouse in St. Paul,  
12 Minnesota. He is home.

13 When his probation officer when the Bureau of  
14 Prisons was looking into him living in North Dakota, his  
15 sister at that time said yes, he can live here, but on a  
16 temporary basis, not forever. So again, the goal has always  
17 been for Mr. Ivers to be home. So when the Government says  
18 he wants his way and he bullies and he doesn't listen, the  
19 whole thing has been to get him here to Minnesota because of  
20 his ties here to this state.

21 What we do know is even though he had a GPS  
22 tracking system on him which could locate him wherever he is  
23 in the state, the Government knew exactly where he was  
24 going. Probation was monitoring that system and they knew  
25 when he came into Minnesota, and they knew where to go to

1 tell people to go arrest him. And when he was arrested  
2 outside of his brother's home in his vehicle, he didn't  
3 attempt to flee. There was no allegations he tampered with  
4 his GPS. In other words, it's showing that he is somebody  
5 that is not trying to hide. He's not trying to flee. And  
6 in fact, as stated in Defense Exhibit 1, he filed a notice  
7 on ECF and said: Guess what, everybody? I'm coming to  
8 Minnesota, and he did exactly that.

9 Now, again, regardless of whether there was a  
10 denial or there was permission, the fact is he said he's  
11 coming to Minnesota. That's where he came. There is not --  
12 there's clear and convincing evidence to show that he will  
13 not flee and he will show up for court on March 13th.

14 I think of concern, what I'm gathering from the  
15 Government's argument and what Probation certainly said,  
16 there was an issue about safety. So even looking at the  
17 offense itself, it is true that even verbal threats can be  
18 dangerous. In fact, that's what he was convicted of. But  
19 let's look at his behavior during that investigation of that  
20 case.

21 Even though the U.S. Marshals had knowledge that  
22 he was right here in Minnesota, there was no indication he  
23 attempted to travel or make contact with the victim. Even  
24 since his conviction, since he's been out of prison, there's  
25 no indication he's attempted to come to the courthouse to

1 meet with the victim, go to the victim's residence, make any  
2 type of phone calls. There's no allegations of any new  
3 threats. In other words, whatever this offense conduct was  
4 that convicted him, it certainly has not been repeated while  
5 he's been out of custody.

6 Looking back at his records, there's no indication  
7 he has any type of violence. In the home inspection,  
8 there's no indication that there was anything threatening or  
9 alarming or anything of concern such that it would raise red  
10 flags that he's a danger to the public.

11 And we know from the October 4th, 2019 hearing in  
12 front of Judge Pratt, his PO said he's completed -- or is  
13 going to mental health counseling. "He comes to my office.  
14 I go to his home." He has been compliant in every such way.  
15 That is a very big factor.

16 So when you look at the safety issues, we see  
17 someone who has been convicted of a very serious crime.  
18 There's no indication he's engaged in that kind of behavior.  
19 Yes, Mr. Ivers is loud and yes, as evidenced by Government's  
20 Exhibit 2, he uses vulgar language, but that does not mean  
21 he's a danger to his community, and it does not mean that he  
22 will not attend court when he is supposed to.

23 Your Honor, there is plenty of clear and  
24 convincing evidence before the Court not only because he  
25 didn't cut off the GPS, not only because he gave notice that



1 he was coming to Minnesota, not only because he was arrested  
2 right here in Minnesota in Hopkins, exactly where he said he  
3 would be. It's also because this is where he's always  
4 wanted to be. He is not a flight risk. He told the Court  
5 himself even if he gets prison time, he will face those  
6 consequences. He's not going to run. He's so desperate to  
7 be here for so many reasons, the last thing he wants to do  
8 is be on the run. If he wanted to run, if he was that  
9 frustrated with Probation, with Mr. Weinberger, it would  
10 make sense that when he was denied on January 30th, he would  
11 have cut off that bracelet and took off and been a free  
12 bird, gone to California, gone to wherever he wanted to, but  
13 he didn't do that. He came back to Minnesota. I don't know  
14 what is more clear and convincing to show that he's not a  
15 risk of flight.

16 And again with the safety, the Government has not  
17 shown anything to say that he is violent since he's been  
18 released from prison, or even prior to him being  
19 incarcerated, but between the period he was incarcerated at  
20 Sherburne County and while the investigation was going on  
21 that he was a danger to the community, during that period of  
22 time. Because again, there was no indication he was making  
23 contact with at that time the alleged victim.

24 For those factors, Your Honor, I would submit to  
25 the Court I have shown by clear and convincing evidence

1       there are conditions the Court can place, and the conditions  
2       I'm asking the Court to do is to place him in a halfway  
3       house and that he remain on GPS monitoring, and during that  
4       time period he be allowed to do searches for homes or places  
5       to live and that he can conduct some of business he spoke to  
6       the Court about with permission from the halfway house and  
7       with permission from his probation officer.

8               Thank you, Your Honor.

9               THE COURT: Thank you.

10              Ms. Allyn, anything further?

11              MS. ALLYN: Your Honor, two points I'd like to  
12       make.

13              This defendant did flee. If we're wondering about  
14       if he's a risk of flight, he did flee. He fled from exactly  
15       the place he is absolutely required to be, was told to him  
16       by multiple probation officers and the judge overseeing this  
17       case more than once, and yet he fled.

18              And this idea that somehow, "I'm where you thought  
19       I would be or I said I would be," let's play that out if  
20       that was a halfway house. If he told the halfway house,  
21       "Hey, I'm going out to the bar" and they say, "No, you don't  
22       get to go" and he's like, "Well, I'm going" and then he went  
23       to the bar, does he get to say like, "Well, I told everybody  
24       where I was, so how was I disobeying the rules? I told you  
25       where I was." This is the exact thinking and behavior that

1 if this Court allows him to go to a halfway house, it will  
2 only embolden him. He will have gotten there then almost by  
3 brute force, right? Everybody else telling him no, he did  
4 what he wanted, and then there he is. He ended up at the  
5 halfway house when he is actually a risk of flight because  
6 he in fact did flee.

7 And as far as safety goes, Your Honor, I would ask  
8 the Court to consider this: What is really the one thing  
9 that's in Minnesota that's not in North Dakota? The victim.  
10 Because in North Dakota he has family, just like he has a  
11 brother in North Dakota -- or in Minnesota, he has a sister  
12 in North Dakota. He does not have a place to live in  
13 Minnesota. He does in North Dakota. He does not have  
14 business interests. They're different in Minnesota than  
15 North Dakota. That list can go on and on. But besides  
16 maybe his brother that his sister could drive his brother  
17 there for him to visit, the only other thing here then is  
18 the victim, and the Government argues what that does is  
19 indicate to the Court a safety concern.

20 Thank you, Your Honor.

21 THE COURT: Thank you.

22 MS. ATWAL: Your Honor, may I be heard briefly to  
23 respond to that last comment?

24 THE COURT: Of course. Come on forward.

25 MS. ATWAL: Your Honor, that is very inaccurate to

1 say the only thing here is the victim in this case. He has  
2 told you he was born and raised here. He talked about some  
3 of his business. He's talked about having different court  
4 appearances. And if you look through the ECF filings, you  
5 see he has a lot of civil lawsuits that were pending also.  
6 There is much more than the alleged victim. And again, if  
7 that was his sole target, there would have been contact and  
8 there just has not been any of that. He was born and raised  
9 here, this is his home, he has family, he has friends.  
10 There's much more here here than there is in North Dakota.  
11 And in fact, when you look at the PSI, it doesn't talk about  
12 his life in North Dakota. It talks about his life right  
13 here in Minnesota with his nieces, nephews, with his  
14 relatives, with his siblings. And again, the intent always  
15 was it was temporary placement in North Dakota. And he  
16 himself told you when he was in prison, he is the one that  
17 asked for North Dakota. If he was that intent on contacting  
18 the victim in this case, he would have said, "Yeah, put me  
19 in Minnesota." He didn't say that. He said, "Put me in  
20 North Dakota." And that is telling, because that is showing  
21 again his intent is not to put the community in danger, in  
22 particular in this case the victim.

23 Thank you, Your Honor.

24 THE COURT: Thank you. I want to take just five  
25 minutes, review my notes. We've had a long session. I

1 don't think I'll be more than that and I think I've got  
2 something starting at 1:15 in any event, but I do want to  
3 take five minute to review my notes. So we will be in  
4 recess until 1:05.

5 (Recess taken at 1:00 p.m.)

6 \* \* \* \*

7 (1:12 p.m.)

8 IN OPEN COURT

9 THE COURT: Starting with the issue of probable  
10 cause, I do find that there is probable cause to support the  
11 allegation that Mr. Ivers violated conditions of his  
12 supervised release. Obviously, it will be ultimately up to  
13 Judge Pratt to make a finding on the question of whether in  
14 fact he did, but there is certainly reason to -- there is  
15 probable cause to believe that he did it, and so Mr. Ivers  
16 will be moving forward to a final revocation hearing in  
17 front of Judge Pratt.

18 On the issue of detention, the burden, as  
19 Ms. Atwal acknowledged, is on Mr. Ivers through counsel to  
20 persuade me by clear and convincing evidence that there are  
21 conditions of release that would reasonably assure his  
22 appearance and would reasonably assure the safety of the  
23 community.

24 On the question of appearance, I am persuaded that  
25 he would show up when he's supposed to show up, but I'm not

1 persuaded that there are conditions of release that would  
2 assure the safety of the community and I am going to order  
3 Mr. Ivers detained until the final revocation hearing.

4 My reason is that the conditions that have been  
5 proposed -- and actually they're really the only conditions  
6 that I could possibly have considered, and that's release to  
7 a halfway house, but Mr. Ivers has shown that he is either  
8 not willing or not able to manage his frustration when he is  
9 required to live by rules that he doesn't agree with. And  
10 the rules of a halfway house do have to do with the safety  
11 of the community. The rules require that the residents  
12 there comply with those rules even when the residents don't  
13 agree with them. Mr. Ivers' phone calls to his probation  
14 officers, among other things, show me that he either isn't  
15 able or isn't willing to manage his anger and manage his  
16 frustration if he feels like the rules aren't fair, and I  
17 believe that's a setup for trouble at a halfway house. I  
18 believe that's a setup for risk. And when the burden is on  
19 Mr. Ivers to convince me by clear and convincing evidence  
20 that there would not be danger to the community if he were  
21 released on conditions such as those, that burden simply  
22 hasn't been met.

23 So I am ordering Mr. Ivers detained until the  
24 final revocation hearing and obviously at that time Judge  
25 Pratt can take a look at kind of the larger picture of the

1 conditions of supervised release and ultimately make  
2 whatever decisions he thinks are appropriate under the  
3 circumstances.

4 So I'm going to ask Ms. Allyn to prepare a draft  
5 of the order, noting that I've made a finding only on the  
6 issue of safety and finding that flight is not the concern  
7 here, and I think that concludes our business for now, this  
8 afternoon.

9 Anything further for the Government?

10 MS. ALLYN: No, Your Honor.

11 THE COURT: Okay. Ms. Atwal, anything further for  
12 Mr. Ivers?

13 MS. ATWAL: Not at this time, Your Honor.

14 THE COURT: All right. We'll be in recess.

15 (Proceedings concluded at 1:17 p.m.)

16 \* \* \* \*

**C E R T I F I C A T E**

I, **TIMOTHY J. WILLETTE**, Official Court Reporter for the United States District Court, do hereby certify that the foregoing pages are a true and accurate transcription from an audio digital recording of proceedings taken in the aforementioned matter, to the best of my skill and ability.

*/s/ Timothy J. Willette*

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